IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 36179 of 2001(F)

PETITIONER:

E. ABDUL JALEEL, KOTTAKKARA, P.V. NORTH, THAZHAVA P.O., KARUNAGAPPALLY, KOLLAM DIST.

BY ADV. SRI.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS:
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1. THE KERALA STATE FINANCIAL ENTERPRISES LTD., VADAYATTUKOTTA, KOLLAM.

2. THE SPECIAL DEPUTY TAHSILDAR (RR), KERALA STATE FINANCIAL ENTERPRISES LTD., KOLLAM.

3. A. HILIMA BAI, BURKATH, KAIKULANGARA WEST, KOLLAM.

4. F.M. YACOOB SAIT, OF .DO.DO.

5. THE DISTRICT TREASURY OFFICER, THIRUVANANTHAPURAM.

ADDL.6. THE CHIEF ENGINEER, P.W.D., THIRUVANANTHAPURAM.

ADDL.7. A. NASEEMA, W/O. ABDUL VAHAB, KUNDURKONATH VEEDU, MUKKUKADA, KUDAVOOR VILLAGE, THIRUVANANTHAPURAM DIST.

ADDL. 8. RIYAD, S/O. ABDUL VAHAB, DO.DO.

ADDL.9. REEJA, D/O. ABDUL VAHAB, DO.DO.

ADDL. R6 IS IMPLEADED AS PER ORDER DATED 2.3.2007
ADDL. R7 TO R9 ARE IMPLEADED AS PER ORDER ON I.A.15591/03 DATED 14.3.2007

R1 BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
SRI.M.L.SAJEEVAN, SC, KSFE LTD.
R7 TO R9 BY ADV. SRI.T.M.ABDUL LATHEEF
SRI.A.MOHAMED RASHEED
R2 AND R5, & R6 BY G.P. SMT. R. BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 59079/01,CMP38106/02 IN CMP 59079/01,I.A.3761 OF 2003 AND I.A.15592/03 IN OP 36179

DISMISSED

14.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DATED 11.8.2000

EXT.P2 TRUE COPY OF REPRESENTATION BY THE PETITIONER DATED 1.9.2000 TO THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF LETTER GIVEN BY THE FIRST RESPONDENT DATED 6.9.2000

EXT.P4 TRUE COPY OF REPRESENTATION BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16.9.2000

EXT.P5 TRUE COPY OF PROCEEDINGS DATED 15.9.2000 ISSUED BY THE ACCOUNTANT GENERAL, KERALA.

EXT.P6 TRUE COPY OF ORDER NO. FE3(B) 34258/2000 DATED 28.9.2000

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 36179 OF 2001

Dated this the 14th day of March, 2007

JUDGMENT

Having regard the dispute in the matter, I feel, the District Collector, Quilon, should be made a party and his involvement is necessary to ensure recovery of dues to the first respondent and Government agencies from the defaulters. Accordingly District Collector, Quilon is made additional respondent in the O.P.

2. Petitioner is a surety for the loan availed by the third respondent from the KSFE. Fourth respondent who is the husband of the principal debtor (borrower) is also a surety along with the petitioner. The father of the addl. 6th respondent is another surety who was proceeded against for recovery. When additional 6th respondent and other legal heirs of the deceased surety approached this Court, this Court vide judgment in WPC 32572 of 2003 dated 17.10.2003 directed recovery against the borrower and her husband-surety. Government Pleader reported that 4th respondent though retired, DCRG and other benefits are not released to him because of various recovery and

garnishee orders pending against him. However, payments have to be made from out of DCRG amount to the creditors in terms of priority. After adjusting the amounts available in the credit of fourth respondent, it is for the second respondent to trace the movable and immovable properties of the borrower and fourth respondent and recover the arrears. In case of failure to recover the arrears from respondents 3 and 4, it would be open to the first and second respondents to proceed against the petitioner and other guarantors including the property of the deceased surety who is the father of addl. 6th respondent. The District Collector is directed to oversee the recovery proceedings in the matter as above and ensure that sureties properties should proceed against only after exhausting the credit available in the retained retirement benefits of fourth respondent and after selling movable and immovable properties of respondents 3 and 4. Even though Government Pleader reported that a case is pending before the Lok Ayukta as complaint No. 1751 of 2004, I do not think Lok Ayukta has any jurisdiction to interfere in the matter because issues are covered by various judgments of this Court, including this one. In the circumstances, District

Collector is directed to enforce the above directions for recovery irrespective of any orders from the Lok Ayukta and file a report of compliance about recovery in this Court on or before 23.5.2007. In the interest of sureties they are directed to trace the movable and immovable properties of respondents 3 and 4 and inform the second respondent about the same.

O.P. is disposed of as above.

Registry will post this case on 28.5.2007 for filing report of compliance by the District Collector.

Issue photocopy of this judgment to G.P. who will forward a copy of this judgment to the District Collector for compliance.

(C.N.RAMACHANDRAN NAIR)
Judge